

SEND

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CV 06-6281 PA

Date April 7, 2008

Present: The Honorable PERCY ANDERSON, UNITED STATES DISTRICT JUDGE

Interpreter

Rosa Morales

Not Reported

William A. Crowfoot

*Deputy Clerk**Court Reporter**Assistant U.S. Attorney*U.S.A. v. Defendant(s):Present Cust. BondAttorneys for Defendants:Present App. Ret.

Arif Durrani

No

No

Proceedings: IN CHAMBERS ORDER

The Court has before it an Ex Parte Notice of Noncompliance With Service by Petitioner Arif Durrani ("Petitioner"), dated March 31, 2008 ("March 31 Ex Parte"). Petitioner explains that as of March 31, 2008, he had not received a motion filed by Respondent S.A. Holencik, Warden ("Respondent"). Petitioner seeks a Court order requiring compliance with service. Additionally, the Court has before it an Ex Parte Notice dated March 27, 2008 ("March 27 Ex Parte"). In that Ex Parte Notice, Petitioner claims Respondent failed to serve the motion properly, and thus engaged in intentional misconduct.

The Court also has before it Respondent's Response to Defendant's Ex Parte Notice¹, explaining its efforts to serve Petitioner with its Motion to Dismiss filed on March 11, 2008 ("Motion"). Respondent mailed a second copy of the Motion on March 25, 2008. Respondent also spoke with Petitioner's case manager in the United States Penitentiary at Victorville. The case manager informed Respondent that he would check to see if Respondent's originally mailed motion had been received and held by mistake, and that he would inform the mail unit and Petitioner that a second copy of the Motion had been mailed.

Respondent is ordered to contact Petitioner's case manager to determine whether Petitioner has been provided a copy of the Motion. If Petitioner has been provided a copy of the Motion, Respondent shall file a proof of service. If Petitioner has not been provided a copy of the Motion, Respondent is ordered to serve Petitioner by mail and also to mail a copy of the Motion directly to Petitioner's case manager, who shall personally serve Petitioner. Respondent shall then file a proof of service or a declaration under penalty of perjury by Petitioner's case manager that he personally served Petitioner.

^{1/} Respondent's Response refers to an Ex Parte Notice remitted for filing as of March 21, 2008. The Court has not received an Ex Parte Notice dated March 21, 2008. Nevertheless, because the Response addresses the service of the March 11, 2008 Motion, the Court is able to determine whether Respondent engaged in misconduct.

Initials of Deputy Clerk

cc:

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The Court has reviewed Respondent's Response and determined that it does not appear that there has been any misconduct. Furthermore, it is unclear what relief Petitioner seeks through his March 27 Ex Parte. If Petitioner seeks more time to respond to the Motion, Petitioner may submit an ex parte application for an extension of time for the Court's consideration, explaining when Petitioner received the motion, if at all.

IT IS SO ORDERED.

Initials of Deputy Clerk

cc: